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Supreme Court of the United States.

No. 272.—October Term, 1906.

The State of Wyoming, ex relatione The Wyoming Agricultural College and Matt Borland, et al., Plaintiffs in Error,
vs.
William C. Irvine, as Treasurer of the State of Wyoming.

In error to the Supreme Court of the State of Wyoming.

[May 13, 1907.]

The plaintiff in error the State of Wyoming, on the relation of the Wyoming Agricultural College and its officers, filed a petition in the Supreme Court of that State for a writ of mandamus against the defendant in error, the State Treasurer. The object of the proceeding was to compel the State Treasurer to pay to the treasurer of the college certain funds in his hands, being the proceeds of land grants and the amount of appropriations made by Congress for the promotion of education in agricultural and mechanical arts. An alternative writ issued, and the respondent appeared and demurred to the petition. The cause was then heard by the Supreme Court of Wyoming, and by that court the demurrer, which was regarded by court and counsel as sufficiently raising the merits of the controversy, was sustained and judgment rendered for the respondent. The case comes here upon writ of error, with allegations of violations of Federal rights, which, so far as material to the decision, are stated in the opinion.

Mr. Justice Moody delivered the opinion of the Court.

The Wyoming Agricultural College was established by an act of the legislature of that State. (Chap. 92, S. L. Wyo. 1890–91.) It was declared to be "a State public educational institution," with the object of giving to men and women, without regard to color, "a liberal education and a thorough knowledge of such arts and sciences as will aid in the prosecution of agricultural pursuits, with their varied applications."

The University of Wyoming was established by the Territory with the declared object of providing education for both sexes in "the different branches of literature, the arts and sciences, with their varied applications." The constitution of the State of Wyoming confirmed the establishment of the university and declared it to be the university of the

State of Wyoming. The first session of the State legislature enacted a law declaring more fully the objects of the university, which provided, among other things, that it should be open to both sexes, regardless of race or color and should "embrace colleges or departments of letters, of science and of the arts. . . . The college, or the department of the arts, shall embrace courses of instruction in the practical and fine arts, especially in the application of science to the arts of mining and metal lurgy, mechanics, engineering, architecture, agriculture and commerce, together with instruction in military tactics."

Land grants and appropriations, which presently will be described in detail, have been made by Congress for the support of education in the State, and the State, acting through its legislature, has accepted the appropriations under the conditions prescribed in the acts of Congress, and has appropriated these national bounties to the support of the university. The agricultural college claimed that under the acts of Congress bestowing these gifts it is entitled to them, and the denial of the Supreme Court of the State of this claim raises the Federal question first to be considered.

By the act of July 2, 1862, (12 Stat. at Large 503,) amended by act of March 3, 1883, (22 Stat. at Large 484,) Congress "granted to the several States, for the purposes hereinafter mentioned," certain quantities of the public lands, or, under certain conditions, in lieu thereof land scrip. The entire proceeds of the sale of the land or of the land scrip were directed to be safely invested by the States as a perpetual fund, whose interest should be "inviolably appropriated by each State, which may take and claim the benefit of this act, to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agricultural and the mechanic arts, in such manner as the legislatures of the State may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." The act further provided that "if any portion of the fund invested is lost, it shall be replaced by the State to which it belongs;" and that "no State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefits of this act, and no State shall be entitled to the benefit of this act unless it shall express its acceptance thereof by its legislature."

The grant made in this statute is clearly to the State and not to any institution established by the State. *Haire* v. *Rice*, 204 U. S. 291.

By the act of August 30, 1890, (26 Stat. at Large, 417,) Congress made permanent annual appropriations of a certain sum of money "to each State and Territory for the more complete endownent and maintenance of col-

leges for the benefit of agriculture and the mechanic arts, now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, . . . to be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural and economic science, with special reference to their applications in the industries of life, and to the facilities for such instruction." It is so obvious that these appropriations are made to the State and not to any institutions within the State, and that the States, acting through their legislatures, are to expend the appropriations in accordance with the trust imposed upon them, that it is unnecessary to quote the numerous expressions in this act which support that view. By the act of March 2, 1887, (24 Stat. at Large, 440,) Congress directed that a certain sum should be annually appropriated "to each State" for the support of agricultural experiment stations at the institutions established under the act of 1862. The law provides that the appropriation shall be paid to the treasurer of the institution where the agricultural experiment station is established, and no money has come or will come into the hands of the State Treasurer. It is, therefore, unnecessary to consider further the provisions of this act. There is in the hands of the State Treasurer the permanent fund established under the act of 1862, and one of the annual appropriations paid to him under the act of 1890. The interest on the fund and the annual appropriation the State treasurer is about to pay to the University of Wyoming in obedience to the laws of the State. The agricultural college claims that it is entitled under those statutes to receive this money. If this claim fails it is the end of the case. But, as has been shown, both the fund and its interest and the annual appropriations are the property of the State and not of any institution within it. The agricultural college shows no title or right to this money under these statutes. The whole case of the plaintiff in error fails at the threshold, and it is unnecessary to determine whether the State has complied with its trust in bestowing the Government bounty upon the University of Wyoming or has violated the obligation of a contract by repealing, as it has, the act establishing the agricultural college. These questions were discussed with learning and ability in the court below, and we do not intend to intimate any disagreement with the conclusions of that court. But as the plaintiff in error must fail in the attempt to compel the payment to it of the money in the hands of the defendant for the reasons already given, there is no need to go further in this court, and the judgment of the Supreme Court of Wyoming is therefore

Affirmed.

True copy.

Test:

Clerk Supreme Court U. S.